

May 8, 2013

MEMORANDUM TO: Shana R. Helton, Chief
Rulemaking Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

FROM: Scott C. Sloan, Project Manager /RA/
Rulemaking Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF CATEGORY 2 PUBLIC MEETING TO DISCUSS
THE PART 26 SUBPART I (FATIGUE MANAGEMENT)
PROPOSED RULEMAKING (TAC NO. ME6220)

On April 11, 2013, the U.S. Nuclear Regulatory Commission (NRC) held a public meeting in Rockville, Maryland, to discuss preliminary proposed rule language regarding the definition of "unit outage" and a draft revision of guidance document NEI 06-11 submitted by the Nuclear Energy Institute. The preliminary proposed rule language was published by the NRC on March 28, 2013. The draft guidance material was submitted to the NRC on February 13, 2012. Both documents were posted to docket folder NRC-2009-0090 on www.regulations.gov.

The meeting was noticed on March 28, 2013. The notice is available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html#web-based-adams>, where the public can access the text and image files of NRC's public documents in the NRC's Agencywide Documents Access and Management System (ADAMS). The meeting notice can be found under ADAMS Accession No. ML13086A149.

The meeting was attended by 28 individuals, 9 of which participated through audio teleconferencing and webinar. The attendees consisted of representatives from the NRC staff and members of the nuclear power reactor community. Enclosure 1 presents a summary of the meeting. Enclosure 2 provides a complete list of participants. Enclosure 3 contains the meeting agenda.

Enclosures:

1. Meeting Summary
2. Meeting Attendance List
3. Agenda

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NRC-001

OFFICE	NRR/DPR/PRMB/PM	NRR/DPR/PRMB/LA	NRR/DPR/PRMB/BC
NAME	SSloan	GLappert	SHelton
DATE	05/08/2013	05/08/2013	05/08/2013

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Summary of January 28, 2013, Public Meeting To Discuss the Part 26 Subpart I (Fatigue Management) Proposed Rule

On April 11, 2013, the Nuclear Regulatory Commission (NRC) held a public meeting in Rockville, Maryland, to discuss preliminary proposed rule language regarding the definition of "unit outage" and a draft revision of guidance document NEI 06-11 submitted by the Nuclear Energy Institute. The preliminary proposed rule language was published by the NRC on March 28, 2013. The draft guidance material was submitted to the NRC on February 13, 2012. Both documents were posted to docket folder NRC-2009-0090 on www.regulations.gov.

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I. Opening Remarks and NRC Presentation

The public meeting began with brief opening remarks followed by a presentation by the NRC staff detailing the preliminary proposed rule language regarding the revised definition of the term "unit outage." The NRC staff's presentation is publicly available under ADAMS Accession No. ML13099A230. The NRC also discussed the staff's rationale when developing the rule language, including the following 3 objectives:

- 1) Preventing licensees from entering an additional 60-day outage period due to an aborted/failed start-up;
- 2) Provide for sufficient time from beginning of start-up to complete normal start-up evolutions (reactor physics testing, chemistry holds, etc.); and
- 3) Prevent licensees from operating for a prolonged period at reduced power levels under outage work hour controls.

One meeting attendee asked what the NRC was looking to prevent by adding the "7 calendar days" provision to the unit outage definition, considering the 60-day limit on unit outages still applies. The NRC staff replied that it would be undesirable to have workers operating a plant at power for an extended period of time since they were coming out of an outage period that allows relaxed work hour controls.

Other than the question noted above, there were no questions or concerns with the proposed changes to the definition of the term "unit outage."

The NRC staff then proceeded to provide a generic overview of the NRC staff's assessment of the latest draft revision of NEI 06-11, the industry guidance document for 10 CFR Part 26, Subpart I, submitted to the NRC by the Nuclear Energy Institute (NEI) on February 13, 2013. The NRC staff explained that the document could be made to be more usable, and noted that it is difficult to follow and that some technical concepts are not explained until very late in the document. The NRC staff further noted that some important guidance is missing from an earlier revision of NEI 06-11, from Frequently Asked Questions found on the NRC's website, and from Regulatory Guide (RG) 5.73. Additionally, the NRC staff highlighted some inconsistencies with rule text and previous NRC staff positions.

ENCLOSURE 1

The NRC staff then suggested that NEI re-organize the document to discuss the framework for the requirements, introduce concepts and terms before they are used in the document, and reduce redundancies. The NRC staff also suggested that NEI not introduce additional new terms. NEI representatives asked if terminology in the guidance document was a cause of concern. The NRC staff explained that the terminology was concerning, but the NRC staff is open to feedback about the industry-wide use of terminology. If there is a need to introduce new terms, then the NRC staff encourages a complete cross-walk between new terms and existing terms in rule language and guidance. The NEI representatives continued to explain that the language in the guidance document was developed by implementers of the rule and not by rule makers or regulators. The objective of NEI defining terms in the guidance document was to eliminate redundancy – not to cause additional confusion. In addition, NEI organized the document from the viewpoint of those who understood fatigue management.

The NRC staff continued to provide examples of substantive concerns regarding the latest draft revision of NEI 06-11. Specifically, the NRC staff indicated that the guidance document revised the definitions of maintenance activities, discussed the calculation of travel time in a way contrary to the NRC's intent, included "transit to and from turnover stations including compliance with radiological and personal safety requirements" in the definition of "shift turnover," combined guidance for fatigue assessments with supervisory assessments for waivers, and lacked clarity regarding different minimum days off requirements for different job duty groups. The NEI representatives acknowledged that some items in the guidance document were inconsistent with the known NRC staff intent, but NEI wants to further discuss those issues in an effort to change the rule itself.

The NRC concluded its presentation by discussing the material NEI submitted on March 26, 2013, in response to the preliminary proposed rule language discussing licensee staff sequestration during severe weather events. The NRC staff explained that the information submitted by NEI will be considered along with other public comments received on the proposed rule. The NRC staff further explained that the preliminary proposed rule language posting and the presentation slides for the January 28, 2013, public meeting to discuss the preliminary proposed rule language clearly indicated that no public comments would be accepted on the preliminary proposed rule language. The NEI representatives stated that they understand the NRC's plan to consider their material along with other public comments received on the proposed rule. The NEI representatives further explained that developing an exception for severe natural phenomena, including weather and public health events, is a complicated issue, but industry representatives do not want to take on the administrative burden of developing and maintaining a living sequestration plan, as proposed by the NRC. The NEI representatives stated that their desired outcome would be greater simplicity in developing an exception, especially since the exception would be used infrequently and for short periods of time.

II. Next Steps

The NRC staff committed to providing written, detailed feedback, including a suggested revised outline for NEI 06-11, by May 31, 2013. The NRC staff also proposed June 18, 2013, as a date to hold a public meeting to discuss the details of the revised guidance document. The NRC staff stated that any unresolved issues in the draft guidance document will be including as

exception, additions, or clarifications in the draft RG 5.73 revision to be issued concurrently with the proposed rule.

Just before the meeting adjourned, an NRC representative asked the industry stakeholders for their high-level perspective of the proposed provisions to subject those individuals who conduct quality inspections to the work hour requirements of Part 26 Subpart I. The NEI representatives indicated no high-level issues, but questioned the safety basis for subjecting these individuals to work hour controls. The NEI representatives noted that the error rate of quality control/quality verification workers is currently near zero, and they stated that they do not understand what problem the proposed provision is aiming to fix. A representative from Exelon also noted that their company is concerned that some individuals from the engineering department that conduct certain post-maintenance and surveillance tests would be subjected to work hour controls because of the wording of the preliminary proposed rule language, and accounting for those individuals differently than others in the same department would be a significant administrative burden.

**April 11, 2013, Public Meeting
To Discuss the Part 26 Subpart I (Fatigue Management) Proposed Rule**

List of Attendees

<u>NAME</u>	<u>AFFILIATION</u>
James Wheeler	Dominion
Tom Miller	First Energy
Lee Marabella	PSEG
Greg Halnon	First Energy
Scott Bauer	Nuclear Energy Institute
Peter Defilippi	Westinghouse
Eddie Humphries	Duke Energy
Frank Mascitelli	Exelon
Nick Pappas	Nuclear Energy Institute
Kamishan Martin	U.S. Nuclear Regulatory Commission (NRC)
Carmen Franklin	NRC
David Desaulniers	NRC
Earl Libby	NRC
Will Smith	NRC
DaBin Ki	NRC
Howard Benowitz	NRC
Shana Helton	NRC
Undine Shoop	NRC
Joe Gitter	NRC
Scott Sloan	NRC
Theresa Barczy*	NRC
Valerie Barnes*	NRC
Jana Bergman*	Curtiss Wright
Kristi Branch*	Pacific Northwest National Laboratory
Frank Mascitelli*	Exelon
Robert Hammons*	Energy-Northwest
Okechuku Okonkwo*	Southern California Edison
Thomas Perry*	South Carolina Electric & Gas
Ken Taplett*	South Texas Project
Tom Houghton*	Certrec

*Participated via Webinar/Conference Call

AGENDA FOR THE APRIL 11, 2013, PUBLIC MEETING
TO DISCUSS THE PART 26 SUBPART I (FATIGUE MANAGEMENT) PROPOSED RULE
1:00 p.m. - 4:00 p.m.

PURPOSE: To discuss preliminary proposed rule language developed by the Nuclear Regulatory Commission and released on March 29, 2013, regarding the definition of “unit outage,” and draft guidance material submitted by the Nuclear Energy Institute on February 13, 2013. This preliminary proposed rule language and draft guidance material are available for review at www.regulations.gov under Docket Folder NRC-2009-0090.

<u>Time</u>	<u>Topic</u>	<u>Led By</u>
1:00 p.m. - 1:05 p.m.	Opening Remarks	NRC
1:05 p.m. - 1:45 p.m.	Discussion of Preliminary Rule Language	NRC
1:45 p.m. - 3:45 p.m.	Discussion of NEI Draft Guidance Material	NRC
3:45 p.m. - 3:55 p.m.	Public Participation	
3:55 p.m. - 4:00 p.m.	Closing Remarks	NRC